

BEFORE THE CONTRACTORS BOARD

STATE OF IDAHO

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OCCUPATIONAL LICENSES

In the Matter of the Registration of:)
) Case No. CON-2007-76
JT ENTERPRISES,)
Registration No. RCE-15691,) **FINDINGS OF FACT,**
) **CONCLUSIONS OF LAW AND**
Respondent.) **RECOMMENDED ORDER**
_____)

Having reviewed the Second Amended Complaint and other documents in this matter, the Hearing Officer hereby enters the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. JT Enterprises (hereinafter "Respondent"), which is owned by Joe Nash and Tiera Nash, is registered with the Idaho State Contractors Board (hereinafter "Board") under Registration No. RCE-15691 to engage in the practice of contracting.

2. On October 12, 2007, a formal administrative Complaint was filed in this matter with the Board. Said Complaint is expressly incorporated herein and made a part hereof.

3. On December 19, 2007, a First Amended Complaint was filed, and Respondent filed an Answer to First Amended Complaint on January 22, 2008.

4. On June 27, 2008, the State filed a Motion for Scheduling Conference to Re-Set Hearing Date and Motion to File Second Amended Complaint.

5. On August 8, 2008, the Hearing Officer issued the Order on Motion for Scheduling Conference to Reset Hearing Date and Motion to File Second Amended Complaint ("Order"). In the Order, the Hearing Officer granted the State's motion to file the Second Amended Complaint and ordered Respondent to file a responsive pleading to the Second Amended Complaint on or before August 29, 2008.

6. In addition to the August 8, 2008, Order, copies of the Second Amended

Complaint, along with the Notification of Procedural Rights, were sent to Respondent on August 11, 2008, by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at its most recent home address on file with the Board, as follows:

Joe Nash
Tiera Nash
JT Enterprises
6716 Wright Lane
Nampa, ID 83686

7. The envelopes containing the copies of the Second Amended Complaint which were sent to Respondent by regular mail and by certified mail have not been returned to the sending office.

8. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Second Amended Complaint within twenty-one (21) days of service of the Second Amended Complaint and that failure to timely file an Answer to the Second Amended Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's registration without the necessity of conducting a hearing.

9. On September 4, 2008, a Notice of Proposed Default Order and Default Order, along with another copy of the Second Amended Complaint and Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

Joe Nash
Tiera Nash
JT Enterprises
6716 Wright Lane
Nampa, ID 83686

10. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

11. Concurrent herewith, a Default Order was entered against Respondent. Therefore, the allegations contained in the Second Amended Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

12. As detailed in the incorporated Second Amended Complaint, Respondent, while a registered contractor, did do the following:

- a. Respondent repeatedly failed to complete a project for KT;
- b. Respondent failed to provide disclosures, engaged in dishonest or dishonorable dealings, and failed to meet the generally accepted standard of care in the practice of construction in relation to the JH project;
- c. Respondent failed to provide disclosures, engaged in dishonest or dishonorable dealings, and failed to meet the generally accepted standard of care in the practice of construction in relation to the SA/JR projects;
- d. Respondent failed to provide disclosures, engaged in dishonest or dishonorable dealings, and failed to meet the generally accepted standard of care in the practice of construction in relation to the MD project;
- e. Respondent failed to provide disclosures, engaged in dishonest or dishonorable dealings, and failed to meet the generally accepted standard of care in the practice of construction in relation to the SM/BM project; and
- f. Respondent failed to provide disclosures, engaged in dishonest or dishonorable dealings, and failed to meet the generally accepted standard of care in the practice of construction in relation to the GE project.

CONCLUSIONS OF LAW

1. As a registered contractor in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 52, Idaho Code.

2. The Second Amended Complaint was sent to Respondent at the address on

file with the Board. Respondent was duly and lawfully given notice of proceedings against its registration pursuant to the provisions of IDAPA 04.11.01.055.


3. Respondent's failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Second Amended Complaint were proved or admitted at a hearing.

4. Respondent's acts as described in the Second Amended Complaint constitute grounds for discipline against Respondent's registration to practice contracting under the laws governing the practice of contracting in the State of Idaho, specifically Idaho Code §§ 54-5215(2)(b) (failure to provide disclosures is a violation of the Idaho Consumer Protection Act and grounds for discipline against a contractor), 54-5215(2)(g) (contractors shall not engage in conduct which constitutes dishonest or dishonorable dealings), and 54-5215(2)(h) (contractors shall not fail to meet the generally accepted standard of care in the practice of construction).

ORDER

Based upon the foregoing, it is the recommendation of the Hearing Officer that the Board take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above.

DATED this 3rd day of October, 2008.


Michael J. Elia
Hearing Officer

NOTICE OF DUE PROCESS RIGHTS

This is a recommended order of the Hearing Officer. It will not become final without action of the Board. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt,

or the petition will be considered denied by operation of law. See Idaho Code § 67-5243(3).

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exceptions to the recommended order shall be filed with the Board. Opposing parties shall have twenty-one (21) days to respond. The Board may schedule oral argument in the matter before issuing a final order. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties and for good cause shown. The Board may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

CERTIFICATE OF SERVICE

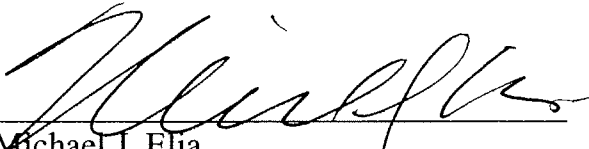
I HEREBY CERTIFY that on this 3rd day of October, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

Joe Nash
Tiera Nash
JT Enterprises
6716 Wright Lane
Nampa, ID 83686

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
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Michael J. Elia
Hearing Officer

BEFORE THE CONTRACTORS BOARD

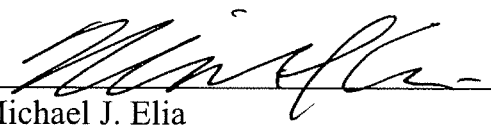
STATE OF IDAHO

In the Matter of the Registration of:)	
)	Case No. CON-2007-76
JT ENTERPRISES,)	
Registration No. RCE-15691,)	DEFAULT ORDER
)	
Respondent.)	
_____)	

THIS MATTER having come before the Idaho State Contractors Board on the Complaint of the Chief of the Bureau of Occupational Licenses pursuant to Idaho Code § 54-5207, and Respondent having failed to contest or otherwise respond to the Second Amended Complaint; now, therefore,

IT IS HEREBY ORDERED that, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, Respondent is in default.

DATED this 3rd day of October, 2008.



Michael J. Elia
Hearing Officer

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 3rd day of October, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

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Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

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Michael J. Elia
Hearing Officer